

**§ 1.292 Public use proceedings.**

(a) When a petition for the institution of public use proceedings, supported by affidavits or declarations is found, on reference to the examiner, to make a prima facie showing that the invention claimed in an application believed to be on file had been in public use or on sale more than one year before the filing of the application, a hearing may be had before the Director to determine whether a public use proceeding should be instituted. If instituted, the Director may designate an appropriate official to conduct the public use proceeding, including the setting of times for taking testimony, which shall be taken as provided by part 41, subpart D, of this title. The petitioner will be heard in the proceedings but after decision therein will not be heard further in the prosecution of the application for patent.

(b) The petition and accompanying papers, or a notice that such a petition has been filed, shall be entered in the application file if:

(1) The petition is accompanied by the fee set forth in § 1.17(j);

(2) The petition is served on the applicant in accordance with § 1.248, or filed with the Office in duplicate in the event service is not possible; and

(3) The petition is submitted prior to the date the application was published or the mailing of a notice of allowance under § 1.311, whichever occurs first.

(c) A petition for institution of public use proceedings shall not be filed by a party to an interference as to an application involved in the interference. Public use and on sale issues in an interference shall be raised by a motion under § 41.121(a)(1) of this title.

(35 U.S.C. 6; 15 U.S.C. 1113, 1123)

[42 FR 5595, Jan. 28, 1977, as amended at 49 FR 48454, Dec. 12, 1984; 61 FR 42807, Aug. 19, 1996; 65 FR 57060, Sept. 20, 2000; 69 FR 50000, Aug. 12, 2004]

**§ 1.293 Statutory invention registration.**

(a) An applicant for an original patent may request, at any time during the pendency of applicant's pending complete application, that the specification and drawings be published as a statutory invention registration. Any

such request must be signed by (1) the applicant and any assignee of record or (2) an attorney or agent of record in the application.

(b) Any request for publication of a statutory invention registration must include the following parts:

(1) A waiver of the applicant's right to receive a patent on the invention claimed effective upon the date of publication of the statutory invention registration;

(2) The required fee for filing a request for publication of a statutory invention registration as provided for in § 1.17 (n) or (o);

(3) A statement that, in the opinion of the requester, the application to which the request is directed meets the requirements of 35 U.S.C. 112; and

(4) A statement that, in the opinion of the requester, the application to which the request is directed complies with the formal requirements of this part for printing as a patent.

(c) A waiver filed with a request for a statutory invention registration will be effective, upon publication of the statutory invention registration, to waive the inventor's right to receive a patent on the invention claimed in the statutory invention registration, in any application for an original patent which is pending on, or filed after, the date of publication of the statutory invention registration. A waiver filed with a request for a statutory invention registration will not affect the rights of any other inventor even if the subject matter of the statutory invention registration and an application of another inventor are commonly owned. A waiver filed with a request for a statutory invention registration will not affect any rights in a patent to the inventor which issued prior to the date of publication of the statutory invention registration unless a reissue application is filed seeking to enlarge the scope of the claims of the patent. See also § 1.104(c)(5).

(Approved by the Office of Management and Budget under control number 0651-0018)

[50 FR 9382, Mar. 7, 1985, as amended at 62 FR 53198, Oct. 10, 1997]